

IN RE: APPLICATION OF SMALLEY ET AL.  
PRELIMINARY AMENDMENT ACCOMPANYING REQUEST FOR FILING DIVISIONAL APPLICATION UNDER  
37 C.F.R. § 1.53(b)

disclaimer to the subject matter thereof. Additionally, claims 163-188 have also been added herein. No new matter is added by the addition of these claims.

B. *Amended Claim.* Claim 33 is amended herein. The Applicant respectfully asserts that the amendment to claim 33, and incorporated by reference in any claims depending therefrom, are not narrowing amendments made for a reason related to the statutory requirements for a patent that will give rise to prosecution history estoppel. *See Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 234 F.3d 555, 566, 56 U.S.P.Q.2d 1865, 1870 (Fed. Cir. 2001).

Attached hereto is a marked-up version of the changes made to claim 33 by the current amendment. The attached page is captioned "Version with Markings to Show Changes Made."


### CONCLUSION

It is believed that each of the claims now pending in the present application recites elements neither taught nor suggested by the prior art. Further, it is believed that the application as a whole is in proper form and condition for allowance. If the Examiner believes that the application may be placed in even better condition for allowance, he or she is invited to contact the undersigned at the telephone number noted below. Alternatively, or in addition, if the Examiner believes that an Examiner interview would be beneficial, the Examiner is invited to note that the undersigned has ready access to the videoconferencing facilities of the South Central Intellectual Property Partnership at Rice University in Houston, Texas. The inventors and the undersigned would welcome the opportunity to use those facilities to clarify any issues deemed to remain unresolved.

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Respectfully submitted,

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**Version with Markings to Show Changes Made**

33. (Amended) The method of claim 32 wherein said linking moiety is selected from the group consisting of -S-, -S-(CH<sub>2</sub>)<sub>n</sub>-NH-, and -SiO<sub>3</sub>(CH<sub>2</sub>)<sub>3</sub>NH- [SiO<sub>3</sub>(CH<sub>2</sub>)<sub>3</sub>NH<sub>3</sub>].

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